## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 23-CR-164-JFH-CDL

**DEMI DALE BURK,** 

v.

Defendant.

## **OPINION AND ORDER**

Before the Court is an amended motion for leave to dismiss without prejudice filed by the United States of America ("Government"). Dkt. No. 42.

Under Federal Rule of Criminal Procedure 48(a), "courts must grant prosecutors leave to dismiss charges unless dismissal is clearly contrary to manifest public interest." *United States v. Robertson*, 45 F.3d 1423, 1437 n.14 (10th Cir. 1995) (quoting *Rinaldi v. United States*, 434 U.S. 22, 30 (1977)). Defendant pled to and has been sentenced on a misdemeanor as charged in the superseding misdemeanor information. Dkt. No. 27; Dkt. No. 34; Dkt. No. 40. Given this resolution of the case, the Court concludes that dismissal of the felony charge and original misdemeanor information against Defendant is not contrary to the public interest, nor is it for an improper purpose. Accordingly, the Government's motion to dismiss should be granted.

IT IS THEREFORE ORDERED that the Government's amended motion to dismiss [Dkt. No. 42] is GRANTED and the indictment [Dkt. No. 2] and original misdemeanor information [Dkt. No. 24] are dismissed without prejudice against Defendant Demi Dale Burk. The Government's original motion to dismiss [Dkt. No. 41] is MOOT.

Following the consent of Defendant to proceed before a magistrate judge on the superseding misdemeanor count and sentencing having been held, the felony and original

misdemeanor counts are hereby dismissed and the Clerk is directed to terminate the district judge from the case assignment. The case number is hereby changed to 23-CR-164-CDL and all future pleadings should be marked accordingly.

Dated this 16th day of August 2023.

JOHN F. HEIL, III

)M+ Well

UNITED STATES DISTRICT JUDGE